

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO. 2010-0858-LII-E**

**RN104805023**

**CASE NO. 39740**

**RESPONDENT NAME: JOE F. SLATER**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> <b>AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input checked="" type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA</b> (check all that apply)	<input type="checkbox"/> <b>INDUSTRIAL HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input checked="" type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATIONS OCCURRED:</b> 3105 Walnut Creek Parkway, Granbury and 3802 Birdsong Court, Granbury, Hood County</p> <p><b>TYPE OF OPERATION:</b> Landscaping business</p> <p><b>SMALL BUSINESS:</b>    <input checked="" type="checkbox"/> Yes    <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> Two complaints were received, alleging that Respondent installed an irrigation system at 3802 Birdsong Court, Granbury, Hood County and did not honor the warranty and that Respondent sold and partially installed an irrigation system at 3105 Walnut Creek Parkway, Granbury, Hood County, without an irrigator license or the required city permit. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> The complainant has not indicated a desire to protest this action or speak at Agenda. No one other than the ED and Respondent expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired November 22, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Stephanie Frazee, Litigation Division, MC 175, (512) 239-3400                  Lena Roberts, Litigation Division, MC 175, (512) 239-3400  <b>TCEQ Enforcement Coordinator:</b> Todd Huddleson, Air Enforcement Section, MC 149, (512) 239-2541  <b>TCEQ Regional Contact:</b> Sid Slocum, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5901  <b>Respondent:</b> Joe F. Slater, P.O. Box 2412, Granbury, Texas 76048  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

<b>VIOLATION SUMMARY CHART:</b>		
<b>VIOLATION INFORMATION</b>	<b>PENALTY CONSIDERATIONS</b>	<b>CORRECTIVE ACTIONS REQUIRED</b>
<p><b>Type of Investigation:</b></p> <p><input checked="" type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Dates of Complaints:</b>            January 4, 2010 and April 22, 2010</p> <p><b>Dates of Investigation:</b>            April 29, 2010 (complaint);            May 6, 2010 (complaint); and            May 13, 2010 (record review)</p> <p><b>Dates of NOEs:</b>            May 3, 2010 and May 17, 2010</p> <p><b>Background Facts:</b>            The EDRP was filed on July 26, 2010, and mailed to Respondent via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDRP sent by certified mail as "unclaimed." The first class mail has not been returned." Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.</p> <p><b>Current Compliance Status:</b>            Respondent has not yet submitted documentation to certify compliance with the technical requirements. Respondent owes \$1,449.56 in past-due fees.</p> <p><b>LII:</b></p> <ol style="list-style-type: none"> <li>Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system at 3105 Walnut Creek Parkway, Granbury, Hood County [30 TEX. ADMIN. CODE §§ 30.5(a) and 344.30(a)(1); TEX. WATER CODE § 37.003; TEX. OCC. CODE § 1903.251; and TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provision Nos. 2.a. and 2.b.].</li> <li>Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system at 3802 Birdsong Court, Granbury, Hood County [30 TEX. ADMIN. CODE §§ 30.5(a) and 344.30(a)(1); TEX. WATER CODE § 37.003; TEX. OCC. CODE § 1903.251; and TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provision Nos. 2.a. and 2.b.].</li> <li>Failed to pay the outstanding administrative penalty associated with the previous Default Order [TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provision No. 1].</li> </ol>	<p><b>Total Assessed:</b> \$1,681</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Order  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>Total Due to General Revenue:</b> \$1,681</p> <p>This is a Default Order. Respondent has not actually paid any of the assessed administrative penalty but will be required to do so within 30 days under the terms of this Order.</p> <p><b>Compliance History Classifications:</b>  <i>Person/CN</i> – N/A  <i>Site/RN</i> – N/A</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>Immediately cease selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed.</li> <li>Within 30 days, submit payment for past-due penalties, including any associated late fees and interest.</li> <li>Within 45 days, submit written certification demonstrating compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	10-May-2010	Screening	13-May-2010	EPA Due	
	PCW	18-May-2010				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Joe F. Slater
Reg. Ent. Ref. No.	RN104805023
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	39740	No. of Violations	3
Docket No.	2010-0858-LII-E	Order Type	Findings
Media Program(s)	Irrigators	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Todd Huddleson
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$2,500

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes

**Culpability**   Enhancement **Subtotal 4**

Notes

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  Enhancement\* **Subtotal 6**

Total EB Amounts	\$119	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$111	

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

**PAYABLE PENALTY**

Screening Date 13-May-2010

Docket No. 2010-0858-LII-E

PCW

Respondent Joe F. Slater

Policy Revision 2 (September 2002)

Case ID No. 39740

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104805023

Media [Statute] Irrigators

Enf. Coordinator Todd Huddleson

### Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 25%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one Default Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 25%

Screening Date 13-May-2010

Docket No. 2010-0858-LII-E

PCW

Respondent Joe F. Slater

Policy Revision 2 (September 2002)

Case ID No. 39740

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104805023

Media [Statute] Irrigators

Enf. Coordinator Todd Huddleson

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 30.5(a), Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251, and TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provisions 2.a. and 2.b.

Violation Description

Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, the Respondent sold and installed an irrigation system at 3105 Walnut Creek Parkway, Granbury, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 1

15 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$625

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement
	Extraordinary	
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$841

This violation Final Assessed Penalty (adjusted for limits) \$841

# Economic Benefit Worksheet

**Respondent** Joe F. Slater  
**Case ID No.** 39740  
**Reg. Ent. Reference No.** RN104805023  
**Media** Irrigators  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Economic benefit costs are included in violation no. 2.

Approx. Cost of Compliance

\$0

TOTAL

\$0

Screening Date 13-May-2010

Docket No. 2010-0858-LII-E

PCW

Respondent Joe F. Slater

Policy Revision 2 (September 2002)

Case ID No. 39740

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104805023

Media [Statute] Irrigators

Enf. Coordinator Todd Huddleson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 30.5(a), Tex. Water Code § 37.003 and Tex. Occupations Code § 1903.251, and TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provisions 2.a. and 2.b.

Violation Description

Failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, the Respondent sold and installed an irrigation system at 3802 Birdsong Court, Granbury, Texas.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$1,875

\$625

Violation Events

Number of Violation Events 1

7 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

mark only one with an x

Violation Base Penalty \$625

One single event is recommended

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
	Extraordinary	
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$119

Violation Final Penalty Total \$841

This violation Final Assessed Penalty (adjusted for limits) \$841

# Economic Benefit Worksheet

**Respondent** Joe F. Slater  
**Case ID No.** 39740  
**Reg. Ent. Reference No.** RN104805023  
**Media** Irrigators  
**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$111	30-Sep-2009	6-May-2010	1.52	\$8	\$111	\$119
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to obtain an irrigator license. Date required is the earliest installation date and the Final Date is the date of the latest record review.

Approx. Cost of Compliance

\$111

TOTAL

\$119

Screening Date 13-May-2010

Docket No. 2010-0858-LII-E

PCW

Respondent Joe F. Slater

Policy Revision 2 (September 2002)

Case ID No. 39740

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN104805023

Media [Statute] Irrigators

Enf. Coordinator Todd Huddleson

Violation Number 3

Rule Cite(s)

TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provision 1.

Violation Description

Failed to pay the outstanding administrative penalty associated with the previous Default Order for TCEQ Financial Account No. 23604343.

Base Penalty \$2,500

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Matrix Notes text area

Adjustment \$2,500

\$0

Violation Events

Number of Violation Events

Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$0

No penalty is recommended because penalty and interest will be assessed at the next billing.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A		(mark with x)

Notes

Notes text area

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

# Economic Benefit Worksheet

**Respondent:** Joe F. Slater

**Case ID No.:** 39740

**Reg. Ent. Reference No.:** RN104805023

**Media:** Irrigators

**Violation No.:** 3

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

**Delayed Costs**

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

**Avoided Costs**

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

N/A

Approx. Cost of Compliance

\$0

**TOTAL**

\$0

# Compliance History Report

Customer/Respondent/Owner-Operator:	CN602954000 SLATER, JOE F.	Classification:	Rating:
Regulated Entity:	RN104805023 SLATER, JOE F.	Classification:	Site Rating:
<hr/>			
ID Number(s):	<hr/>		
Location:	PO Box 2412, GRANBURY, TX 76048		
TCEQ Region:	REGION 04 - DFW METROPLEX		
Date Compliance History Prepared:	May 25, 2010		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	May 25, 2005 to May 25, 2010		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Todd Huddleson Phone: 239 - 2541

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A

### Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 03/14/2009 ADMINORDER 2008-0634-LII-E  
 Classification: Major  
 Citation: 12 TOC Chapter 1903, SubChapter F 1903.251(a)(1)  
 2F TWC Chapter 37, SubChapter L 37.003  
 30 TAC Chapter 30, SubChapter A 30.5(a)  
 30 TAC Chapter 344, SubChapter A 344.4(a)

Description: Failed to possess a valid irrigator license issued by the TCEQ prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

N/A

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JOE F. SLATER;  
RN104805023**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

**DEFAULT ORDER  
DOCKET NO. 2010-0858-LII-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 37, TEX. OCC. CODE ch. 1903, and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondent. The respondent made the subject of this Order is Joe F. Slater ("Respondent").

The Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. Respondent owns and operates a landscaping business located at 4304 Peak Road in Granbury, Hood County, Texas (the "Business").
2. Respondent sells, designs, installs, maintains, alters, repairs, and/or services landscape irrigation systems. Therefore, Respondent is subject to TCEQ jurisdiction pursuant to TEX. OCC. CODE ch. 1903, TEX. WATER CODE ch. 37, and the rules of the TCEQ.
3. During a record review conducted on April 28, 2010, a TCEQ Central Office investigator documented that Respondent failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, Respondent sold and installed an irrigation system at 3105 Walnut Creek Parkway, Granbury, Hood County, Texas, without an irrigator license.
4. During a record review conducted on May 6, 2010, a TCEQ Central Office investigator documented that Respondent failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system. Specifically, Respondent sold and installed an irrigation system at 3802 Birdsong Court, Granbury, Hood County, Texas, without an irrigator license.

5. During a record review conducted on May 13, 2010, a TCEQ Central Office Enforcement Coordinator documented that Respondent failed to pay the outstanding administrative penalty associated with a previous Default Order for TCEQ Financial Account No. 23604343.
6. Respondent received notice of the violation in Finding of Fact No. 3 on or about May 8, 2010. Respondent received notice of the violation in Finding of Fact No. 4 on or about May 22, 2010.
7. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Joe F. Slater" (the "EDPRP") in the TCEQ Chief Clerk's office on July 26, 2010.
8. By letter dated July 26, 2010, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served Respondent with notice of the EDPRP. The United States Postal Service returned the EDPRP sent by certified mail as "unclaimed." The first class mail has not been returned, indicating that Respondent received notice of the EDPRP.
9. More than 20 days have elapsed since Respondent received notice of the EDPRP, provided by the Executive Director. Respondent failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### **CONCLUSIONS OF LAW**

1. As evidenced by Findings of Fact Nos. 1 and 2, Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE ch. 37, TEX. OCC. CODE ch. 1903, and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Respondent failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system at 3105 Walnut Creek Parkway, Granbury, Hood County, Texas, in violation of 30 TEX. ADMIN. CODE § 30.5(a); TEX. WATER CODE § 37.003; TEX. OCC. CODE § 1903.251; and TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provision Nos. 2.a. and 2.b.
3. As evidenced by Finding of Fact No. 4, Respondent failed to hold an irrigator license prior to selling, designing, consulting, installing, maintaining, altering, repairing, or servicing an irrigation system at 3802 Birdsong Court, Granbury, Hood County, Texas, in violation of 30 TEX. ADMIN. CODE § 30.5(a); TEX. WATER CODE § 37.003; TEX. OCC. CODE § 1903.251; and TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provision Nos. 2.a. and 2.b.

4. As evidenced by Finding of Fact No. 5, Respondent failed to pay the outstanding administrative penalty associated with a previous Default Order for TCEQ Financial Account No. 23604343, in violation of TCEQ Default Order Docket No. 2008-0634-LII-E, Ordering Provision No. 1.
5. As evidenced by Findings of Fact Nos. 7 and 8, the Executive Director timely served Respondent with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(c)(2).
6. As evidenced by Finding of Fact No. 9, Respondent failed to file a timely answer as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondent and assess the penalty recommended by the Executive Director.
7. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondent for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.
8. An administrative penalty in the amount of one thousand six hundred eighty-one dollars (\$1,681.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
9. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

#### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondent is assessed an administrative penalty in the amount of one thousand six hundred eighty-one dollars (\$1,681.00) for violations of state statutes and rules of the TCEQ. The payment of this administrative penalty and Respondent's compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here.
2. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: Joe F. Slater; Docket No. 2010-0858-LII-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

3. Respondent shall undertake the following technical requirements:
- a. Immediately upon the effective date of this Order, Respondent shall cease selling, designing, consulting, installing, maintaining, altering, repairing, or servicing landscape irrigation systems until properly licensed in accordance with the requirements of 30 TEX. ADMIN. CODE ch. 30.
  - b. Within 30 days after the effective date of this Order, Respondent shall submit payment for past-due penalties, including any associated late fees and interest, with the notation "Joe F. Slater, Account No. 23604343" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

- c. Within 45 days after the effective date of this Order, Respondent shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondent shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Tracy Miller  
Landscape Irrigation Program, MC 174  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

4. All relief not expressly granted in this Order is denied.
5. The provisions of this Order shall apply to and be binding upon Respondent. Respondent is ordered to give notice of this Order to personnel who maintain day-to-day control over the Business operations referenced in this Order.
6. If Respondent fails to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondent's failure to comply is not a violation of this Order. Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondent shall notify the Executive Director within seven days after Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
7. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondent shall be made in writing to the Executive Director. Extensions are not effective until Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
8. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondent if the Executive Director determines that Respondent has not complied with one or more of the terms or conditions in this Order.
9. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.

10. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF STEPHANIE J. FRAZEE**

STATE OF TEXAS           §  
  §  
COUNTY OF TRAVIS       §

“My name is Stephanie J. Frazee. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the “Executive Director’s Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of Joe F. Slater” (the “EDPRP”) was filed with the Office of the Chief Clerk on July 26, 2010.

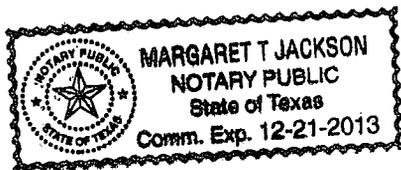
The EDPRP was mailed to Respondent at his last known address on July 26, 2010, via certified mail, return receipt requested, and via first class mail, postage prepaid. The United States Postal Service returned the EDPRP sent by certified mail as “unclaimed.” The first class mail has not been returned, indicating that Respondent received notice of the EDPRP, in accordance with 30 TEX. ADMIN. CODE § 70.104(c)(2).

More than 20 days have elapsed since Respondent received notice of the EDPRP. Respondent failed to file an answer, failed to request a hearing, and failed to schedule a settlement conference.”

  
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Stephanie J. Frazee, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Stephanie J. Frazee, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 24<sup>th</sup> day of September A.D., 2010.



  
\_\_\_\_\_  
Notary Signature